

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Guiseppe Molaro on July 14, 2009.

The application has been amended as follows:

Replace Claim 25 with the following:

Claim 25: A method of implanting an intervertebral implant into an intravertebral disc space between upper and lower vertebra comprising the steps of:

a) providing an intervertebral implant including:

an intervertebral spacer body having an upper endface to contact at least a portion of the upper vertebra and a lower endface to contact at least a portion of the lower vertebra;

a first end member including a plurality of spikes for engaging at least a portion of the upper vertebra and one or more elastically deformable projections extending from an inner surface of an internal bore formed in the first end member; and

a second end member including a plurality of spikes for engaging at least a portion of the lower vertebra and one or more elastically deformable projections extending from an inner surface of an internal bore formed in the second end member,

each of the one or more projections of the first and second end members includes a transversely extending lug for engaging the intervertebral spacer body;

b) providing access to the intervertebral disc space;

c) inserting the intervertebral implant into the intervertebral disc space such that the upper endface of the spacer body contacts at least a portion of the upper vertebra and the lower endface of the spacer body contacts at least a portion of the lower vertebra;

d) slidably, non-rotatably moving the first and second end members with respect to the intervertebral spacer body between a second position to a first position;

wherein in the second position: the plurality of spikes formed on the first end member does not extend beyond the upper endface of the spacer body and the plurality of spikes formed on the second end member does not extend beyond the lower endface of the spacer body, the one or more projections of the first end member are in contact with the inner surface of the internal bore of the first end member, and the one or more projections of the second end member are in contact with the inner surface of the internal bore of the second end member,

and in the first position: the plurality of spikes formed on the first end member extend beyond the upper endface of the spacer body and at least partially into engagement with the upper vertebra and the plurality of spikes formed in the second end member extend beyond the lower endface of the spacer body at least partially into engagement with the lower vertebrae,

e) securing the position of the first and second end members to the intervertebral spacer body in the first position by the one or more projections of the first end member moving out of contact with the inner surface of the internal bore formed in the first end member and the one or more projections of the second end member moving out of contact with the inner surface of the internal bore formed in the second end member so that the lugs of the one or more projecting members of the first and second end members become engaged to the spacer body.

2. The following is an examiner's statement of reasons for allowance: Claim 25 has been indicated allowable because the prior art of record fails to disclose either singly or in combination a method of implanting an intervertebral implant into the disc space, where the implant includes a spacer body with an upper and lower endface, first and second end members, each end member having a plurality of spikes and elastically deformable projections with lugs. The implant is inserted where the end members are in a second position such that the spikes on the end members does not extend beyond the upper and lower endfaces of the spacer body and the projections are in contact with an inner surface of the end members, then slidably, non-rotatably moving the end members to first position such that the spikes extend beyond the spacer body and into the vertebra and the projections moves out of contact with the inner surface of the end member and the lugs engage the spacer body.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and relied upon is considered pertinent to the applicant's disclosure. See PTO-892 for art cited of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAN CHRISTOPHER MERENE whose telephone number is (571)270-5032. The examiner can normally be reached on 8 am - 6pm Mon-Thurs, alt Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jan Christopher Merene/
Examiner, Art Unit 3733

/Eduardo C. Robert/
Supervisory Patent Examiner, Art Unit 3733